

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

These proposed regulations aim to implement two new statutory schemes that the Public Employment Relations Board (PERB or Board) has been tasked with administering and enforcing: the Public Employee Communication Chapter and the Prohibition on Public Employers Deterring or Discouraging Union Membership. These proposed regulations will also modify the existing regulation concerning Board decisions in order to improve efficiency in the issuance of Board decisions.

As a result of Assembly Bill 119 (Chapter 21, Statutes of 2017), effective June 27, 2017, as amended by Senate Bill 112 (Chapter 363, Statutes of 2017), effective September 28, 2017, Senate Bill 866 (Chapter 53, Statutes of 2018), effective June 27, 2018, and Senate Bill 1085 (Chapter 893, Statutes of 2018), effective January 1, 2019, PERB is responsible for the administration and enforcement of the Public Employee Communication Chapter (PECC), which is codified at Chapter 11.5 of Title 1 of the Government Code, section 3555 et seq. As a result of Senate Bill 285 (Chapter 567, Statutes of 2017), effective January 1, 2018, as amended by Senate Bill 866 (Chapter 53, Statutes of 2018), effective June 27, 2018, PERB is responsible for the administration and enforcement of the Prohibition on Public Employers Deterring or Discouraging Union Membership (PEDD), which is codified at Chapter 11 of Title 1 of the Government Code, section 3550 et seq. This new legislation, and the duties imposed upon PERB under it, require amendments to PERB's existing regulations, along with the adoption of new regulations, in order to fully implement the Board's jurisdiction.

The PECC and the PEDD charge PERB with administering and enforcing the Chapters, but do not establish procedures for processing alleged violations. Rather, the PECC and the PEDD leave to the Board to determine the procedures that it will implement in order to administer and enforce the PECC and the PEDD. Government Code section 3541.3 provides PERB with the power and duty to investigate unfair practice charges and alleged violations of the acts it administers, and to adopt rules and regulations to effectuate the policies underlying the acts it administers. In order to exercise its jurisdiction and perform its duties under the PECC and the PEDD, PERB must implement a procedure for processing alleged violations of the PECC and the PEDD. These proposed regulations apply PERB's existing unfair practice procedures for processing alleged violations of the PECC and the PEDD.

The PECC includes a provision allowing a city or county employer facing binding arbitration pursuant to the PECC the option to request that PERB appoint an Administrative Law Judge or other PERB employee to serve as the arbitrator. The PECC provides that the city or county shall pay for the cost of the arbitrator but does not set a rate for PERB's arbitration services. PERB's existing regulations do not contain a provision setting the rate that will be charged if a party requests PERB appoint a Board agent to serve as an interest arbitrator pursuant to the PECC.

These proposed regulations set the cost of PERB's arbitration services. These proposed regulations will also distinguish an arbitration decisions issued pursuant to the PECC from other types of decisions issued by PERB. The proposed regulation changes have been identified as necessary for the implementation of PERB's responsibilities pursuant to the PECC and the PEDD and are intended to provide more clarity, transparency, and efficiency in the Board's processing violations of the PECC and PEDD.

This rulemaking package also includes an amendment to PERB's existing regulation 32320 concerning decisions of the Board itself. The proposed amendments will expand the Board's ability to designate all or part of a decision as non-precedential to any decision issued by the Board itself. Under existing regulation 32320(d), the Board may only designate its review of the dismissal of an unfair practice charge as non-precedential. Because the ability to designate a decision as non-precedential is currently limited to one class of cases, the Board must spend considerable time ensuring that precedential decisions in all other classes of cases are thoroughly explained and precisely worded—even if the decision adds nothing significant to PERB's body of law. This necessitates fine tuning of every precedential decision, requiring the Board to spend substantial resources on cases of a routine nature that do not advance the state of the law or provide meaningful guidance to stakeholders and future parties, which impedes the Board's ability to decide cases in a timely manner. By expanding the ability to designate a Board decision in any class of case as non-precedential and allowing requests for the reversal of a precedential or non-precedential designation of a decision, the proposed amendments have been identified as necessary in order to improve the efficiency in the Board's decision-making.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

The implementation of the PECC and the PEDD impacts the public employers, public employee organizations and approximately two million public employees under the jurisdiction of the eight public sector labor relations statutes administered by PERB. The proposed regulations will implement the Board's jurisdiction over matters arising under the PECC and the PEDD and will extend the application of PERB's existing unfair practice procedures to alleged violations of the PECC and the PEDD. Because PERB's unfair practice charge process is well-established, the implementation of these procedures for matters arising under the PECC and the PEDD will aid in the expedient resolution of disputes arising under the PECC and the PEDD, in furtherance of the policies underlying the PECC and the PEDD. These regulations will ensure that the procedural and substantive rights provided by the PECC and the PEDD of public employers, public employee organizations and public employees under PERB's jurisdiction are protected. Ultimately, the guidance provided by these regulations will operate to ensure that exclusive representatives have the ability to effectively communicate with the public employees it represents in order to ensure the effectiveness of the state's labor relations statutes, and that public employers will not deter or discourage union membership or representation, in furtherance

of harmonious labor relations. The proposed amendment to the regulation concerning the issuance of Board decisions will improve the efficiency of the Board's issuance of decisions, thereby improving public sector labor relations. California residents' welfare will receive the benefit of stable collective bargaining and dispute resolution in the form of continuous delivery of the essential services that California's public employees provide to California communities.

SECTION-BY-SECTION EXPLANATION FOR ADOPTION

a. Adoption of New Sections

Proposed Section 32036 adopts a definition of "PECC," the Public Employee Communication Chapter (Government Code section 3555 et seq.). The Public Employee Communication Chapter has begun to be referred to as the "PECC," and the definition in this proposed section reflects the common usage of this term. Inclusion of this proposed section is necessary to promote clarity throughout PERB's regulations.

Proposed Section 32038 adopts a definition of "PEDD," the Prohibition on Public Employers Deterring or Discouraging Union Membership chapter (Government Code section 3550 et seq.). The Prohibition on Public Employers Deterring or Discouraging Union Membership chapter has begun to be referred to as the "PEDD," and the definition in this proposed section reflects the common usage of this term. Inclusion of this proposed section is necessary to promote clarity throughout PERB's regulations.

Proposed Section 32039 will define terms applicable for charges filed under the PEDD. Proposed subdivision (a) defines the term "exclusive representative" for the purposes of the PEDD. The rights and responsibilities of the "exclusive representative" are defined in the PEDD. Proposed subdivision (a) is necessary because the PEDD itself does not define the term "exclusive representative." Providing a definition of this term will give parties clarity because this term is used throughout the proposed regulations and throughout the PEDD. This definition of exclusive representative conforms with the well-established meaning of the phrase as defined in relation to the other collective bargaining statutes administered by PERB, such as the Educational Employment Relations Act (EERA), which defines an exclusive representative as "the employee organization recognized or certified as the exclusive negotiating representative of public school employees ... in an appropriate unit of a public school employer." (Gov. Code, § 3540.1, subd. (e).)

Proposed Section 32610 describes unfair practices by a public employer under the PECC. Government Code section 3555.5(c)(1) provides PERB with the authority to process violations of the PECC. This section is necessary in order to provide clarification to parties that alleged violations of the PECC will be processed as unfair practices. Because the PECC does not specifically identify the conduct that might be considered an unfair practice, PERB's only

method of identifying the types of conduct that constitute unfair practices would otherwise be through case-by-case deliberation, which would leave the parties without guidance for a long period of time. This section is necessary in order to provide guidance and clarification to parties filing unfair practice charges with PERB as to what employer actions constitute unfair practices.

The Board has determined that the following conduct will be processed as unfair practices:

Proposed subdivision (a) makes it an unfair practice to provide the exclusive representative with less than 10 days' notice in advance of a new employee orientation. Such conduct would be a violation of Government Code section 3556. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PECC would constitute an unfair practice.

Proposed subdivision (b) makes it an unfair practice to refuse or fail to provide the exclusive representative with access to a new employee orientation. Such conduct would be a violation of Government Code section 3556. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PECC would constitute an unfair practice.

Proposed subdivision (c) makes it an unfair practice to refuse or fail to negotiate with the exclusive representative, upon request, over the structure, time, and manner of the exclusive representative's access to new employee orientations. Such conduct would be a violation of Government Code sections 3556 and 3557. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PECC would constitute an unfair practice.

Proposed subdivision (d) makes it an unfair practice to disclose the date, time, and place of a new employee orientation to any party other than the employees, the exclusive representative, or a vendor that is contracted to provide a service for purposes of the orientation. Such conduct would be a violation of Government Code section 3556. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PECC would constitute an unfair practice.

Proposed subdivision (e) makes it an unfair practice to refuse or fail to provide the exclusive representative information required by Government Code Section 3558. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PECC would constitute an unfair practice.

Proposed subdivision (f) makes it an unfair practice to refuse or fail to grant a reasonable leave of absence to a public employee upon request of the exclusive representative. Such conduct would be a violation of Government Code section 3558.8. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PECC would constitute an unfair practice.

Proposed subdivision (g) makes it an unfair practice to refuse or fail to negotiate with the exclusive representative, upon request, over the procedures for requesting and granting leave. Such conduct would be a violation of Government Code section 3558.8. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PECC would constitute an unfair practice.

Proposed subdivision (h) makes it an unfair practice to in any other way violate the PECC. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that any other conduct alleged to be in violation of the PECC, despite not being specifically enumerated in PERB's regulations, could constitute an unfair practice.

Proposed Section 32610.5 describes unfair practices by an exclusive representative under the PECC (Government Code, section 3555 et seq.). Government Code section 3555.5(c)(1) provides PERB with the authority to process violations of the PECC. This section is necessary in order to provide clarification to parties that alleged violations of the PECC are unfair practices. Because the PECC does not specifically identify the conduct that might be considered an unfair practice, PERB's only method of identifying the types of conduct that constitute unfair practices would otherwise be through case-by-case deliberation, which would leave the parties without guidance for a long period of time. This section is necessary in order to provide guidance and clarification to parties filing unfair practice charges with PERB as to what exclusive representative actions constitute unfair practices.

The Board has determined that the following conduct will be processed as unfair practices:

Proposed subdivision (a) makes it an unfair practice to refuse or fail to negotiate with the public employer, upon request, over the structure, time, and manner of the exclusive representative's access to new employee orientations. Such conduct would be a violation of Government Code sections 3556 and 3557. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PECC would constitute an unfair practice.

Proposed subdivision (b) makes it an unfair practice to refuse or fail to negotiate with the public employer, upon request, over the procedures for requesting and granting leave as required by Government Code Section 3558.8(b). Such conduct would be a violation of Government Code section 3558.8. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PECC would constitute an unfair practice.

Proposed subdivision (c) makes it an unfair practice to in any other way violate the PECC. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that any other conduct alleged to be in violation of the PECC, despite not being specifically enumerated in PERB's regulations, could constitute an unfair practice.

Proposed Section 32611 describes unfair practices by a public employer under the PEDD. Government Code section 3551(a) provides PERB with the authority to process violations of the PEDD. This section is necessary in order to provide clarification to parties that alleged violations of the PEDD are unfair practices. Because the PEDD does not specifically identify the conduct that might be considered an unfair practice, PERB's only method of identifying the types of conduct that constitute unfair practices would otherwise be through case-by-case deliberation, which would leave the parties without guidance for a long period of time. This section is necessary in order to provide clarification to parties filing unfair practice charges with PERB as to what employer actions constitute unfair practices.

The Board has determined that the following conduct will be processed as unfair practices:

Proposed subdivision (a) makes it an unfair practice to deter or discourage public employees or applicants to be public employees from becoming or remaining members of an employee organization, or from authorizing representation by an employee organization, or from authorizing dues or fee deductions to an employee organization. Such conduct would be a violation of Government Code section 3550. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PEDD would constitute an unfair practice.

Proposed subdivision (b) makes it an unfair practice to disseminate a mass communication to public employees or applicants, without first meeting and conferring with the exclusive representative over the contents of the communication. Such conduct would be a violation of Government Code section 3553. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PEDD would constitute an unfair practice.

Proposed subdivision (c) makes it an unfair practice to refuse or fail to distribute the exclusive representative's message in addition to and at the same time as the employer's message, in the event that the public employer and exclusive representative do not agree to the contents of the employer's mass communication. Such conduct would be a violation of Government Code section 3553. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PEDD would constitute an unfair practice.

Proposed subdivision (d) makes it an unfair practice to in any other way violate the PEDD. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that any other conduct alleged to be in violation of the PEDD, despite not being specifically enumerated in PERB's regulations, could constitute an unfair practice.

Proposed Section 32611.5 describes unfair practices by an exclusive representative under the PEDD. Government Code section 3551(a) provides PERB with the authority to process violations of the PEDD. This section is necessary in order to provide clarification to parties that alleged violations of the PEDD are unfair practices. Because the PEDD does not specifically

identify the conduct that might be considered an unfair practice, PERB's only method of identifying the types of conduct that constitute unfair practices would otherwise be through case-by-case deliberation, which would leave the parties without guidance for a long period of time. This section is necessary in order to provide clarification to parties filing unfair practice charges with PERB as to what exclusive representative actions constitute unfair practices.

The Board has determined that the following conduct will be processed as unfair practices:

Proposed subdivision (a) makes it an unfair practice to fail to meet and confer with the public employer over the contents of an employer's mass communication, as defined in the PEDD. Such conduct would be a violation of Government Code section 3553. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that a violation of this requirement of the PEDD would constitute an unfair practice.

Proposed subdivision (b) makes it an unfair practice to in any other way violate the PEDD. The inclusion of this proposed subdivision is necessary in order to provide clarity to parties that any other conduct alleged to be in violation of the PEDD, despite not being specifically enumerated in PERB's regulations, could constitute an unfair practice.

Proposed Subchapter 10 to Chapter 1, titled Interest Arbitration, which contains regulations pertaining to PECC Interest Arbitration. This subchapter is needed for organizational clarity.

Proposed Article 1 of Subchapter 10 is titled General Provisions, containing regulations generally relevant to PECC Interest Arbitration. This article has been implemented for organizational clarity, in order to maintain uniformity in the organizational structure of PERB's regulations.

Proposed Section 33013 adopts a definition of an "arbitration decision" issued by a Board agent pursuant to the PECC. The PECC at Government Code section 3557 requires interest arbitration if public employers and exclusive representatives cannot come to an agreement while meeting and conferring over the structure, time, and manner of the exclusive representative's access to new employee orientations. Interest arbitration pursuant to the PECC culminates in a written decision. Government Code section 3557(b)(4) provides that cities and counties may request PERB appoint an Administrative Law Judge or other employee to serve as interest arbitrator. In the event that a PERB employee serves as interest arbitrator, a PERB employee would then issue an arbitration decision, as defined in this section. Applicable timelines, procedures, and appeal rights are set forth in PERB's regulations based on the type of PERB decision issued. This regulation is necessary in order to distinguish PECC arbitration decisions from other decisions issued by PERB.

Proposed subdivision (a) defines an "arbitration decision" as a decision issued by a PERB Administrative Law Judge or other Board agent following interest arbitration conducted pursuant to Government Code Section 3557(b)(4) after an eligible party requests PERB appoint an ALJ or

other Board agent to serve as arbitrator. This subdivision is necessary in order to promote clarity and provide a definition of the term for the purposes of PERB documentation and regulations.

Proposed subdivision (b) distinguishes an “arbitration decision” from other types of decisions that may be issued by a Board agent. Proposed subdivision (b)(1) provides that an “arbitration decision” is not a “proposed decision,” as set forth in regulation 32215. Inclusion of this distinction is necessary because various procedures, including the availability of appeal to the Board itself, apply to proposed decisions, but will not apply to “arbitration decisions” issued pursuant to the PECC. The PECC sets forth the applicable procedures in a PECC interest arbitration, along with the requirements for PECC “arbitration decisions.” Government Code section 3557(b)(2) requires arbitration decisions to be issued within 10 days of the arbitration, and provides that the decision is final and binding on the parties. The inclusion of this subdivision is necessary to clarify that PERB’s regulations governing PERB “proposed decisions,” including the ability to appeal the decision to the Board itself, will not apply to “arbitration decisions” issued pursuant to the PECC.

Proposed subdivision (b)(2) provides that an “arbitration decision” is not an “administrative decision,” as set forth in regulation 32350. Inclusion of this distinction is necessary because various procedures, including the availability of appeal to the Board itself, apply to “administrative decisions,” but will not apply to “arbitration decisions” issued pursuant to the PECC. The PECC sets forth the applicable procedures in a PECC interest arbitration, along with the requirements for PECC “arbitration decisions.” Government Code section 3557(b)(2) requires arbitration decisions to be issued within 10 days of the arbitration, and provides that the decision is final and binding on the parties. The inclusion of this subdivision is necessary to clarify that PERB’s regulations governing PERB “administrative decisions,” including the ability to appeal the decision to the Board itself, will not apply to “arbitration decisions” issued pursuant to the PECC.

Proposed Article 2 of Subchapter 10 of Chapter 1 is titled Services, containing regulations governing the services rendered by PERB for PECC Interest Arbitration. This article has been implemented for organizational clarity, in order to maintain uniformity in the organizational structure of PERB’s regulations.

Proposed Section 33020 adopts the rate of reimbursement that PERB will charge for an Administrative Law Judge or other PERB employee’s arbitration services. The PECC provides that a city or county may request PERB appoint an Administrative Law Judge or other PERB employee to serve as interest arbitrator. The PECC also provides that the city or county must pay for the cost of the arbitrator appointed by PERB. The inclusion of this section is necessary in order to set the rate that PERB will charge cities or counties for PECC interest arbitration services administered. Inclusion of this section is also necessary to aid administrative efficiency when billing for arbitration services. Without such a provision, PERB’s only method of determining reimbursement rates for arbitration services rendered would be through a case-by-

case cost analysis, which would be inefficient to administer and would leave parties with no guidance as to the potential cost of requesting PERB's services.

PERB has set the cost for arbitration services at \$280.00 per hour, prorated for each quarter hour of work that is less than a full hour. This is the rate set forth in the 2018-2019 State of California Department of General Services (DGS) Price Book for the Office of Administrative Hearings (OAH). PERB has chosen to charge the same rate as DGS because the Price Book rates represent a consistent and objective source of cost information for use by State departments, covering activities such as administrative hearings, human resources, legal services, publishing, and procurement. DGS Price Book rates for OAH are reliable, being vetted annually by DGS through the Department of Finance's Governor's Budget development. PERB and OAH are both mandated to provide administrative law judges for presiding over dispute resolutions in California, including for public jurisdictions such as cities and counties. Because it would be redundant for PERB to develop its own rates for purposes that are similar to what DGS develops for use by OAH, PERB has adopted the OAH Price Book rate. PERB has determined that prorating the hourly fee by the quarter-hour, as opposed to charging an hourly or daily rate is preferable in order to better approximate the costs actually incurred and to avoid over-charging parties for services performed, while not overburdening the PERB ALJ with smaller incremental time periods to track.

This rate of reimbursement will apply to time spent performing all tasks related to the interest arbitration is necessary in order to reimburse PERB for all costs incurred in providing the arbitration service. A PERB employee's work related to interest arbitration will require time spent in addition to the arbitration hearing itself, including preparation before the arbitration and decision writing after the arbitration. This provision is necessary in order to reimburse PERB for the costs incurred when providing arbitration services. The provision prorating the hourly rate by the quarter hour is necessary in order to efficiently and accurately track the amount of time spent on PECC interest arbitration matters for billing.

b. Amendments to the Text of Existing Sections

Section 32100 provides for when regulations contained in Chapter 1 apply to PERB proceedings. Chapter 1 currently contains nine subchapters: (1) Internal Procedure; (2) Definitions and General Provisions; (3) Hearings; (4) Decisions of the Board Itself; (5) Unfair Practice Proceedings; (6) Representation Proceedings; (7) Compliance; (8) Agency Fee Regulations; and (9) State Mediation and Conciliation Service. This rulemaking proposes a tenth subchapter titled Interest Arbitration. The vast majority of Chapter 1 contains provisions that apply to all PERB proceedings, such as service or filing requirements. Section 32100 states the provisions of Chapter 1 that do not apply to specified PERB proceedings. Chapters 2 through 8 contain regulations that apply specifically to matters arising under the enumerated collective bargaining statute. Inclusion of this proposed amendment to section 32100 is necessary to delineate the regulations that are applicable to matters arising under the PECC and the PEDD.

Proposed subdivision (g) provides that all rules and regulations within Chapter 1, except for Subchapters 6 and 8, shall apply to proceedings conducted under the PEDD and the PECC, excluding the administration of PECC interest arbitration pursuant to Government Code section 3557(b)(4). Subchapter 6 of Chapter 1 governs representation proceedings, such as conducting representation elections or petitioning to modify a bargaining unit. The PECC and the PEDD apply to parties under the jurisdiction of other collective bargaining statutes, each of which containing unique representation provisions. Inclusion of this provision is necessary because the PECC and the PEDD do not include provisions that pertain to representation matters.

Subchapter 8 of Chapter 1 governs agency fees. Inclusion of this provision is necessary because the PECC and the PEDD do not include provisions that pertain to agency fees and because the Board no longer enforces agency fee provisions pursuant to the United States Supreme Court's ruling that public sector agency fees are unconstitutional in *Janus v. American Federation of State, County, and Municipal Employees, Council 31* (2018) 138 S.Ct. 2448. Proposed subdivision (g) also provides that the rules and regulations in Articles 1 and 2 of Subchapter 2, and Subchapter 10 of Chapter 1 apply to PERB's administration of interest arbitration pursuant to the PECC. Separate treatment of PECC interest arbitration is necessary because PECC interest arbitration is a different form of dispute resolution than PERB's unfair practice proceedings. Subchapter 2 of Chapter 1 contains definitions and general provisions that apply to all matters involving PERB. Inclusion of this provision is necessary in order to inform parties that these general provisions and requirements will apply to a PECC interest arbitration in the event PERB is requested to appoint an Administrative Law Judge or other PERB employee to serve as interest arbitrator. Proposed Subchapter 10 of Chapter 1, titled Interest Arbitration, applies to PECC interest arbitration when a city or county requests a PERB Administrative Law Judge or other PERB employee serve as interest arbitrator pursuant to Government Code section 3557(b)(4). Inclusion of this provision is necessary in order to provide clarity regarding the regulations applicable to PECC interest arbitration.

Section 32120 provides for the filing of written agreements or memorandum of understanding with the Board. The proposed amendment to Section 32120 extends its application to matters arising under the PECC and the PEDD. PERB must at times review the terms and conditions of a collective bargaining agreement in the course of carrying out its duties. PERB needs the authority to demand that an employer provide a collective bargaining agreement upon request because there are times when the employer will not provide the information voluntarily. It is incumbent upon the employer to bear the responsibility of production because it is in a better position than employee organizations or individual employees to maintain and reproduce records, such as collective bargaining agreements. The proposed amendment to Section 32120 extending its application to matters arising under the PECC and the PEDD is necessary to facilitate the resolution of unfair practice charges arising under the PECC and the PEDD, and to provide notice to parties that agreements made pursuant to the PECC or the PEDD may be requested by the Board.

Section 32320 concerns decisions of the Board itself. The proposed amendments to Regulation 32320 would further the overarching purpose of the statutes PERB administers, which is fostering harmonious employer-employee relations in California's public sector, by allowing the Board to issue non-precedential decisions in cases of a routine nature, thereby allowing the Board to issue decisions more quickly while conserving its resources for cases that raise novel or complex issues. For many years, the Board has sought to increase the efficiency in which Board decisions are issued. In 2013, the Board adopted existing regulation 32300(d), which resulted in reduced processing times for appeals from dismissals of unfair practice charges by the Office of the General Counsel. Based on PERB's experience since the adoption of existing regulation 32300(d), it is anticipated that expanding its scope to all cases through these proposed amendments will allow the Board to more expeditiously issue decisions, while concurrently reducing the number of decisions stakeholders and parties must review to assess the current state of the law.

According to the Judicial Council's 2017 Court Statistics Report, in Fiscal Year 2015-2016 only 8% of court of appeal decisions were published. The ability to designate decisions as non-precedential is crucial to maintaining the California courts' ability to expeditiously decide cases. Through these proposed amendments, PERB seeks to adopt the successful practice of the courts of appeal. These subdivisions are modeled on California Rules of Court, rule 8.1105(c), which sets forth the criteria for publication of a California court of appeal decision. Previously, subdivisions (c) and (d) provided that all Board decisions were precedential, except in the case of an appeal of a dismissal of a case by the Office of the General Counsel, in which case, a majority of the Board members issuing the decision could determine whether to designate the decision as precedential or non-precedential based upon the criteria in subdivision (d). The proposed amendments to subdivisions (c) and (d) expand the Board's ability to designate any Board decision as non-precedential based on the criteria in subdivision (d). The proposed amendment to subdivision (c) clarifies the regulatory language providing that all Board decisions are precedential, unless designated otherwise. This amendment is necessary in order to clarify the presumption that a Board decision is precedential, unless expressly designated otherwise. The proposed amendment to subdivision (d) expands the Board's ability to designate any Board decision as non-precedential. This amendment is necessary in order to expand the Board's ability to designate any type of case as non-precedential in order to allow the Board to issue decisions more expeditiously, while concurrently reducing the number of decisions stakeholders and parties must review to assess the current state of the law.

Proposed subdivisions (e) through (h) are modeled on California Rules of Court, rule 8.1120, which concerns requesting the publication of an opinion, and California Rules of Court, rule 8.1125, which concerns requesting the depublication of an opinion. Proposed subdivision (e) provides that the Board itself may reverse, in whole or in part, the prior designation of a Board decision or order as precedential or non-precedential. This provision is necessary in order to clarify that the Board itself possesses this power. Proposed subdivision (e) provides that a

request to reverse the precedential or non-precedential designation of a Board decision may be made, based upon the criteria set forth in subdivision (d), within 20 days of service of the decision. Proposed subdivision (e) requires that an original and five copies of the request shall be filed with the Board itself in the headquarters office and served in accordance with regulation 32140. The requirement that the request is filed with the Board is necessary in order to ensure the request is filed with the decision-making body. The requirement that such a request is filed within 20 days of service of the decision or order is necessary in order to create a deadline and ensure that requests are not made after considerable time has passed following the publication of the decision. The requirement that a requesting party provide an original and five copies is necessary to ensure that PERB's records contain original documents, and to provide each Board member a copy of the document. The requirement that the request seeking precedential designation of a decision state with specificity why one or more of the criteria in subparagraph (d) are satisfied is necessary in order to ensure parties provide the Board with information relevant to the request because the Board's determination of the request will be based upon the substantive criteria set forth in subdivision (d). The requirement that the request seeking non-precedential designation of a decision state with specificity why one or more of the criteria in subparagraph (d) are not satisfied is necessary in order to ensure parties provide the Board with information relevant to the determination of the request, which will be based upon the substantive criteria set forth in subdivision (d).

Proposed subdivision (f) provides that a response to such a request may be filed within 20 days of the service of the request. Proposed subdivision (f) provides that the response must include the original and five copies, and must be and served in accordance with regulation 32140. This subdivision is necessary in order to provide interested parties the opportunity to respond to such. The requirement that a response is filed within 20 days of service is necessary in order to create a deadline ensuring that requests may be processed expeditiously. The requirement to provide an original and five copies is necessary to ensure that PERB's records contain original documents, and to provide each Board member a copy of the document.

Proposed subdivision (g) provides that the effectiveness of a Board decision or order will not be stayed by such requests. This subdivision is necessary in order to ensure that requests to reverse the precedential or non-precedential designation of a decision do not delay the effectiveness of the Board decision.

Proposed subdivision (h) provides that the Board's ruling on a request to change the precedential or non-precedential designation of a decision is not subject to a request for reconsideration. This subdivision is necessary in order to provide clarity to parties that the Board's ruling on a request to reverse the precedential or non-precedential designation of a decision is final, and not subject to a request for reconsideration pursuant to regulation 32410.

Section 32350 provides a definition of an administrative decision and its required components. Proposed subdivision (a)(4) provides that an "arbitration decision" issued pursuant to the PECC

section 3557(b)(4) is not an “administrative decision.” Because regulation 32350 defines administrative decisions as “any determination made by a Board agent other than” the listed decision types, this additional subdivision is necessary in order to clarify that an “arbitration decision” issued pursuant to the PECC is one other type of Board agent decision that is not an “administrative decision.” Administrative decisions are subject to substantive requirements and have unique appeal procedures. Because Government Code section 3557 includes all of the substantive requirements for an interest arbitration decision and includes all of the procedures that will apply, PERB’s regulations governing administrative decisions cannot apply to interest arbitration decisions issued pursuant to the PECC section 3557(b)(4). This subdivision is necessary in order to provide clarity to the parties as to their substantive and procedural requirements because the type of PERB decision issued determines parties’ rights and responsibilities in PERB’s process.

Section 32602 provides for the processing of unfair practice charges. The proposed amendment to subdivision (a) provides that alleged violations of the PECC will be processed as unfair practice charges. PECC section 3555.5(c)(1) provides PERB with jurisdiction over the PECC, and the authority to investigate alleged violations of the PECC as unfair practice charges pursuant to the Board’s powers and duties provided by Government Code section 3541.3. The proposed amendment to subdivision (a) is necessary to clarify that PERB will exercise its jurisdiction over alleged violations of the PECC by processing such allegations as unfair practice charges. This amendment is also necessary to provide parties under PERB’s jurisdiction with clarity as to the proper means of seeking redress with PERB for alleged violations of the PECC, in order to inform parties of their rights and obligations throughout PERB’s process.

The proposed amendment to subdivision (a) also provides that alleged violations of the PEDD will be processed as unfair practice charges. PEDD section 3551(a) provides PERB with jurisdiction over the PEDD, and the authority to investigate alleged violations of the PEDD as unfair practice charges pursuant to the Board’s powers and duties provided by Government Code section 3541.3. The proposed amendment to subdivision (a) is necessary to clarify that PERB will exercise its jurisdiction over alleged violations of the PEDD by processing such allegations as unfair practice charges. This amendment is also necessary to provide parties under PERB’s jurisdiction with clarity as to the proper means of seeking redress with PERB for alleged violations of the PEDD, in order to inform parties of their rights and obligations throughout PERB’s process.

The proposed changes to the authority and reference citations are necessary in order to reflect the Legislature’s extension of the Board’s responsibilities to include jurisdiction over matters arising under the PECC and the PEDD and to also correct a typographical error in the existing statutory reference to Public Utilities Code section 9561.2, which does not exist. This reference has been corrected to reference Public Utilities Code section 99561.2, which is a section of the Transit Employer-Employee Relations Act (TEERA) under PERB’s jurisdiction.

c. Amendments to the Authority and Reference Only

Section 31001 provides for meetings of the Public Employment Relations Board. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32020 provides a definition for the term "Board." The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32030 provides a definition for the term "Board itself." The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32050 provides a definition for the term "General Counsel." The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32055 provides a definition for the term "Chief Administrative Law Judge." The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32060 provides a definition for the term "headquarters office." The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32075 provides a definition for the term "regional office." The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32080 provides a definition for the term "day." The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32090 provides for filing by facsimile machine. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32091 provides for filing by electronic mail message. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32105 provides for the severability of PERB's regulations. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32130 provides for the computation of time within PERB's regulations. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32132 concerns the requirements for an extension of time in which to file documents with the Board. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32135 concerns filing requirements. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32136 concerns late filing requirements. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32140 concerns service requirements. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32142 concerns the proper recipient for filing or service. The proposed changes do not make any changes to the text of this section, but only update the authority and reference

citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32145 concerns the waiver of time period requirements for filing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32147 concerns expediting matters before the Board. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32149 concerns the issuance of investigative subpoenas. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32150 concerns the issuance of subpoenas. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32155 concerns the disqualification of a Board agent or Board Member. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32162 concerns the confidentiality of Board investigations. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32164 concerns an application for joinder. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32168 concerns the conduct of hearings. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32169 concerns the taking of depositions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32170 concerns the powers and duties of a Board agent conducting a hearing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32176 concerns the rules of evidence in unfair practice cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32178 concerns the burden of proof in unfair practice cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32180 addresses the rights of the parties in PERB hearings. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32185 concerns ex parte communications with Board agents. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32190 concerns filing and rulings on motions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32200 concerns the appeal of rulings on motions and other interlocutory matters. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32205 concerns requests for continuances. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32206 concerns the production of statements of witnesses after testimony. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32207 concerns stipulation of facts for purposes of hearing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32209 addresses the procedure for correction of hearing transcripts. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32210 concerns the filing of informational briefs and oral argument. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32212 concerns briefs and oral argument. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32215 concerns issuance of proposed decisions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32220 concerns contemptuous conduct by a party or a party's agent. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32230 concerns the refusal of a witness to testify. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This

update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32295 concerns ex parte communications with members of the Board itself or legal advisers to Board members. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32300 concerns the filing of exceptions to Board agent decisions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32305 concerns the finality of Board agent's decisions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32310 provides for the filing of responses to exceptions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32315 provides for oral argument on exceptions. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32325 concerns the remedial powers of the Board. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32400 provides that a motion for reconsideration is not required in order to exhaust administrative remedies. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32410 provides for the filing of requests for reconsideration. The proposed changes do not make any changes to the text of this section, but only update the authority and reference

citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32450 concerns the filing of requests for injunctive relief. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32455 concerns the investigation of requests for injunctive relief. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32460 provides for recommendations by the General Counsel concerning requests for injunctive relief. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32465 provides for decisions by the Board itself concerning requests for injunctive relief. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32470 addresses the authority of the General Counsel concerning requests for injunctive relief where a quorum of the Board itself is unavailable. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32605 concerns the number of copies of unfair practice charges required for filing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32612 specifies in which "regional office" unfair practice charges filings should be made. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32615 concerns the contents of an unfair practice charge. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32620 concerns the processing of an unfair practice charge case. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32621 concerns the amending of unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32625 concerns the withdrawal of unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32630 concerns the dismissal of unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32635 provides for the appeal of dismissals of unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32640 concerns the issuance of complaints in unfair practice charge cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32644 provides for the filing of an answer in unfair practice charges where a complaint issues. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32645 concerns non-prejudicial errors in unfair practice charge cases and related documents. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32647 concerns amendments to complaints in unfair practice charge cases before hearing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32648 concerns amendments to complaints in unfair practice charge cases during a hearing. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32649 concerns the filing of answers to amendments to complaints in unfair practice charge cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32650 concerns the conduct of informal settlement conferences in unfair practice charge cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32661 concerns repugnancy claims. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32680 concerns the conduct of hearings on unfair practice charges. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32690 concerns notice of hearing in unfair practice charge cases. The proposed changes do not make any changes to the text of this section, but only update the authority and reference

citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32980 provides for the enforcement of compliance with final decisions of the Board. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

Section 32998 provides reimbursement rates for services provided by the State Mediation and Conciliation Service. The proposed changes do not make any changes to the text of this section, but only update the authority and reference citations. This update is necessary to reflect the Legislature's extension of the Board's responsibilities to include jurisdiction over matters arising under the PECC and the PEDD.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The PECC provides for interest arbitration. PERB maintains a list of private interest arbitrators through the State Mediation and Conciliation Service (SMCS), and upon request, sends parties a list of arbitrator names chosen randomly. In proposing the adoption of these regulations applicable to the PECC, PERB has referenced this list of private arbitrators available for interest arbitration. As of January 25, 2019, there are 100 private arbitrators on this list. The average fee for a private arbitrator on this list is \$1,722.23 per day, and the median fee for a private arbitrator on this list is \$1,800.00 per day. The fee charged by these arbitrators is charged by the day and will not be prorated in the event that less than a full day of services are provided.

The PECC provides an option for cities and counties to request PERB appoint an Administrative Law Judge (ALJ) or other PERB employee to serve as interest arbitrator. As of January 25, 2019, no such request has been received by PERB. PERB has set an hourly rate of \$280.00, prorated by the quarter-hour, in the event that a city or county elects to request PERB's optional arbitration services in lieu of a private interest arbitrator. This hourly rate for arbitration services is based on the price of ALJ services at the Office of Administrative Hearings, as set forth in the State of California Department of General Services 2018-19 Price Book, published on October 1, 2018, which may be found at:

[https://www.documents.dgs.ca.gov/ofs/Price%20Book/Price%20Book%20-%20Current%20Version%20\(Site%20Published\).pdf](https://www.documents.dgs.ca.gov/ofs/Price%20Book/Price%20Book%20-%20Current%20Version%20(Site%20Published).pdf).

ECONOMIC IMPACT ASSESSMENT (Government Code section 11346.3(b))

As a result of Assembly Bill 119 (Chapter 21, Statutes of 2017), effective June 27, 2017, as amended by Senate Bill 112 (Chapter 363, Statutes of 2017), effective September 28, 2017,

Senate Bill 866 (Chapter 53, Statutes of 2018), effective June 27, 2018, and Senate Bill 1085 (Chapter 893, Statutes of 2018), effective January 1, 2019, PERB is responsible for the administration and enforcement of the PECC, which is codified at Government Code section 3555 et seq. As a result of Senate Bill 285 (Chapter 567, Statutes of 2017), effective January 1, 2018, as amended by Senate Bill 866 (Chapter 53, Statutes of 2018), effective June 27, 2018, PERB is responsible for the administration and enforcement of the PEDD, which is codified at Government Code section 3550 et seq. The proposed regulations implement procedures for PERB's enforcement of the PECC and the PEDD, thereby protecting the procedural and substantive rights of public employers, employee organizations, and the public employees they represent, as set forth in the PECC and the PEDD. The proposed amendment to the existing regulation concerning the Board's decisions will only impact the procedures applicable to public employers, employee organizations, and the public employees they represent with matters before the Board.

In accordance with Government Code Section 11346.3(b), PERB has made the following assessments regarding the proposed regulations:

Creation or Elimination of Jobs Within the State of California

The proposed regulations are designed to provide guidelines for the filing and processing of unfair practice charges alleging violations of the PECC and the PEDD, along with PERB's administration of matters arising from the PECC's provision for binding interest arbitration, and the issuance of Board decisions. In clarifying and interpreting California Government Code sections 3555.5 and 3551 with the proposed procedures and guidelines, no jobs in California will be created or eliminated.

Creation of New Businesses or Elimination of Existing Businesses Within the State of California

The proposed regulations are designed to provide guidelines for the filing and processing of unfair practice charges alleging violations of the PECC and the PEDD, along with PERB's administration of matters arising from the PECC's provision for binding interest arbitration, and the issuance of Board decisions. In clarifying and interpreting California Government Code sections 3555.5 and 3551 with the proposed procedures and guidelines, no new businesses will be created or existing businesses eliminated in California, and the ability of California businesses to compete with businesses in other states will not be impacted.

Expansion of Businesses Within the State of California

The proposed regulations are designed to provide guidelines for the filing and processing of unfair practice charges alleging violations of the PECC and the PEDD, along with PERB's administration of matters arising from the PECC's provision for binding interest arbitration, and the issuance of Board decisions. The only parties that will be affected by this regulatory action are public employers and employee organizations. In clarifying and interpreting California Government Code sections 3555.5 and 3551 with the proposed procedures and guidelines, no existing businesses in California will be expanded.

PERB will continue to investigate the potential for economic impact throughout this rulemaking process.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed regulations are designed to provide procedures for the filing and processing of alleged violations of the PECC and the PEDD and requests for PERB to administer binding interest arbitration pursuant to the PECC, and to modify the existing procedures concerning the issuance of Board decisions. Through these procedures, PERB will ensure improvement of public sector labor relations by providing information and clarity to parties regarding PERB's process, and aid efficiency in PERB's resolution of labor disputes, which will promote full communication between public employers and their employees in resolving disputes over wages, hours and other terms and conditions of employment. The proposed regulatory action will not adversely affect the health and welfare of California residents, worker safety, or the State's environment. The proposed regulatory action will further the policies underlying the PECC and the PEDD by providing a process to expediently resolve alleged violations of the PECC and the PEDD. California residents' general welfare will be benefitted by stable collective bargaining and dispute resolution, which translates to continuous delivery of the essential services that California's public agencies and employees provide to California's communities.

INFORMATION RELIED UPON TO SUPPORT PERB'S INITIAL DETERMINATION THAT THE PROPOSED REGULATORY ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The PECC and the PEDD, along with the other public sector labor relations statutes that PERB is charged with enforcing, set forth the rights and obligations of entities and individuals operating in the public sector. Because the scope of the PECC, the PEDD, and the other public sector labor relations statutes that PERB is charged with enforcing is limited to the public sector, PERB has initially determined that the proposed regulatory action implementing the PECC and the PEDD and updating the regulation concerning the issuance of Board decisions will not have a significant adverse economic impact on business.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

PERB has not identified any adverse impacts on small business as a result of these proposed regulations, and has not identified any alternatives that would lessen any adverse impact on small business. Thus, no such alternative has been proposed.

MANDATED USE OF SPECIFIC TECHNOLOGIES OR EQUIPMENT

PERB's proposed regulations do not mandate the use of any specific technologies or equipment.